

CAMPAIGN SPENDING COMMISSION

STATE OF HAWAII

In Re the Matter of	)	CA 02-02
	)	
THERMAL ENGINEERING	)	
CORPORATION and Ken I. Mashima,	)	
Peter K. Schubert, Paul S. Fukunaga,	)	
Kevin M. Machida, Bruce N. Omori,	)	
Lisa H. Oxentine and David H. Niino,	)	
	)	
Respondents.	)	
_____	)	

CONCILIATION AGREEMENT

On or around September 2001, Robert Y. Watada, Executive Director for the Campaign Spending Commission ("Commission"), initiated an investigation of Respondents Thermal Engineering Corporation (hereinafter "Thermal" unless indicated otherwise) and its officers as follows:

Ken I. Mashima	President
Peter K. Schubert	Secretary/Vice President
Paul S. Fukunaga	Treasurer/Vice President
Kevin M. Machida	Vice President
Bruce N. Omori	Assistant Treasurer
Lisa N. Oxentine	Assistant Treasurer
David H. Niino	Director

Thermal lists their business address as 512 Kalihi Street, Honolulu. The investigation was initiated pursuant to the express authority of section 11-193, Hawaii Revised Statutes ("HRS"), for a determination of whether the campaign spending law had been violated and a complaint would be submitted to the Commission.

NOW, THEREFORE, Thermal and the Commission, having entered into conciliation and pursuant to section 11-216(g), HRS, do hereby agree as follows:

- I. That the Commission has jurisdiction over Respondents and the subject matter of this administrative action.
- II. That this Conciliation Agreement ("Agreement") and upon complete performance of the conditions stated herein has the effect of remedial or corrective action taken by Respondents pursuant to section 11-216(g), HRS.
- III. That Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- IV. That Respondents waives the right to be heard at a public hearing conducted under chapter 91, HRS, pursuant to section 11-228(b), HRS.
- V. That Respondents enter into this Agreement with the Commission on their own volition and with full knowledge and understanding.
- VI. That parties agree to the pertinent facts as follows:
  1. On or around September 2001, Robert Y. Watada, in his capacity as Executive Director of the Campaign Spending Commission, and upon information received through the disclosure statements of candidate committees, initiated an investigation involving excess contributions in violation of section 11-204(a)(3), HRS.
  2. The investigation covered the period January 1, 1996 through July 30, 2001.
  3. Thermal is registered with the Commission as a noncandidate committee.

4. Section 11-204(a)(2), HRS reads in part as follows: No person, other than a candidate for the candidate's own campaign, or any other entity shall make contributions to:...A candidate seeking nomination or election to a four-year statewide office or to the candidate's committee in an aggregate amount greater than \$6,000 during an election period.
5. Section 11-204(a)(3), HRS, reads in part as follows: No person, other than a candidate for the candidate's own campaign, or any other entity shall make contributions to:...A candidate seeking nomination or election to a four-year nonstatewide office or to the candidate's committee in an aggregate amount greater than \$4,000 during an election period.
6. Section 11-202, HRS reads in part as follows: No person shall make a contribution of the person's own money or property, or money or property of another person to any candidate, party, or committee in connection with a nomination for election, or election, in any name other than the true name of the person who owns the money or who supplied the money or property.
7. The election period for Jeremy Harris and the Harris 2000 campaign committee for Mayor of Honolulu ("Harris") include the period from November 6, 1996 to November 7, 2000.

8. On or about November 2, 1999, Kevin M. Machida made a contribution to Harris in the amount of \$2,000 for which he received a reimbursement from Thermal.
9. On or about November 2, 1999, Lisa Oxentine made a contribution to Harris in the amount of \$1,000 for which she received a reimbursement from Thermal.
10. On or about November 2, 1999, Bruce Omori made a contribution to Harris in the amount of \$1,000 for which he received a reimbursement from Thermal.
11. On or about December 13, 1999, Bruce Omori made a contribution to Harris in the amount of \$1,500 for which he received a reimbursement from Thermal.
12. On or about December 13, 1999, Lisa Oxentine made a contribution to Harris in the amount of \$1,500 for which she received a reimbursement from Thermal.
13. On or about December 29, 1999, Lisa Oxentine made a contribution of \$1,000 to Harris for which she received a reimbursement from Thermal.
14. On or about December 29, 1999, Bruce Omori made a contribution of \$1,000 to Harris for which he received a reimbursement from Thermal.

15. On or about December 29, 1999, Kevin Machida made a contribution of \$1,000 to Harris for which he received a reimbursement from Thermal.
16. On or about March 30, 2000, Lisa Oxentine made a contribution of \$500 to Harris for which she received a reimbursement from Thermal.
17. On or about March 30, 2000, Bruce Omori made a contribution to Harris in the amount of \$500 for which he received a reimbursement from Thermal.
18. On or about March 30, 2000, Kevin Machida made a contribution to Harris in the amount of \$1,000 for which he received a reimbursement from Thermal.
19. On or about September 7, 2000, Peter Schubert made a contribution to Harris in the amount of \$4,000 for which he received a reimbursement from Thermal.
20. The election period for Governor Ben Cayetano and the Friends of Ben Committee ("Cayetano") for the 1998 election include the period from January 1, 1995 to November 6, 1998.
21. On or about April 15, 1997, Paul Fukunaga made a contribution to Cayetano in the amount of \$1,000 for which he received a reimbursement from Thermal.

22. On or about April 15, 1997, Kevin Machida made a contribution to Cayetano in the amount of \$1,000 for which he received a reimbursement from Thermal.
23. On or about April 15, 1997, Bruce Omori made a contribution to Cayetano in the amount of \$1,000 for which he received a reimbursement from Thermal.
24. On or about April 17, 1997, Ken Mashima made a contribution to Cayetano in the amount of \$1,000 for which he received a reimbursement from Thermal.
25. On or about April 17, 1997, Lisa Oxentine made a contribution to Cayetano in the amount of \$2,000 for which she received a reimbursement from Thermal.
26. On or about December 16, 1997, Lisa Oxentine made a contribution to Cayetano in the amount of \$1,000 for which she received a reimbursement from Thermal.
27. On or about December 16, 1997, Bruce Omori made a contribution to Cayetano in the amount of \$1,000 for which he received a reimbursement from Thermal.
28. On or about December 16, 1997, Kevin Machida made a contribution to Cayetano in the amount of \$1,000 for which he received a reimbursement from Thermal.

29. On or about December 16, 1997, Ken Mashima made a contribution to Cayetano in the amount of \$1,000 for which he received a reimbursement from Thermal.
30. On or about June 22, 1998, Lisa Oxentine made a contribution to Cayetano in the amount of \$1,500 for which she received a reimbursement from Thermal.
31. On or about June 22, 1998, Kevin Machida made a contribution to Cayetano in the amount of \$1,625 for which he received a reimbursement from Thermal.
32. On or about June 22, 1998, Bruce Omori made a contribution to Cayetano in the amount of \$1,500 for which he received a reimbursement from Thermal.
33. On or about June 18, 1998, Peter Schubert made a contribution to Cayetano in the amount of \$1,750 for which he received a reimbursement from Thermal.
34. On or about October 1, 1998, Peter Schubert made a contribution to Cayetano in the amount of \$1,500 for which he received a reimbursement from Thermal.
35. On or about October 1, 1998, Kevin Machida made a contribution to Cayetano in the amount of \$1,000 for which he received a reimbursement from Thermal.

36. On or about October 1, 1998, Bruce Omori made a contribution to Cayetano in the amount of \$1,000 for which he received a reimbursement from Thermal.
37. On or about October 1, 1998, Lisa Oxentine made a contribution to Cayetano in the amount of \$1,200 for which she received a reimbursement from Thermal.
38. The election period for Mayor James "Kimo" Apana and the Friends of James "Kimo" Apana ("Apana") for the 2002 election include the period from November 6, 1998 to November 5, 2002.
39. On or about June 19, 2001, Bruce Omori made a contribution to Apana in the amount of \$2,000 for which he received a reimbursement from Thermal.
40. The election period Mayor Linda Lingle and the Linda Lingle Campaign Committee ("Lingle") for the 1998 election include the period from January 1, 1995 to November 6, 1998.
41. On or about July 21, 1998, Peter Schubert made a contribution to Lingle in the amount of \$200 for which he received a reimbursement from Thermal.
42. That aggregate contributions total \$22,000 to the Harris campaign committee.
43. For the 2000 election period, contributions totaled \$20,000 to the Harris campaign committee. The position of the Commission is



that \$16,000 in contributions is in violation of section 11-202, HRS.

44. That aggregate contributions to the Cayetano campaign committee total \$21,075. The position of the Commission is that \$21,075 in contributions is in violation of section 11-202, HRS.
45. That the aggregate contributions to the Apana campaign committee total \$6,000. The position of the Commission is that \$2,000 in contributions is in violation of section 11-202, HRS.
46. That the aggregate contributions to the Lingle campaign committee total \$500. The position of the Commission is that \$200 in contributions is in violation of section 11-202, HRS.

## VII. Settlement Terms

As final settlement of the matter and issues in Conciliation Agreement #02-02, Thermal without admitting liability, understands and agrees to the following:

- (A) Thermal agrees to an assessment of **Thirty-one thousand dollars (\$31,000)** pursuant to section 11-228, HRS:
  - (1) An assessment of \$12,000 for twelve campaign contributions to the Harris campaign committee that the Commission contends is in violation of section 11-202, HRS.
  - (2) An assessment of \$17,000 for seventeen campaign contributions to the Cayetano campaign committee

that the Commission contends is in violation of section 11-202, HRS.

(3) An assessment of \$1,000 for one campaign contribution to the Apana campaign committee that the Commission contends is in violation of section 11-202, HRS.

(4) An assessment of \$1,000 for one campaign contribution to the Lingle campaign committee that the Commission contends is in violation of section 11-202, HRS.

(B) Thermal further agrees to comply with campaign finance statutes on contributions and expenditures as of the date of this Agreement.

(C) Terms of payment of the assessment shall be by Order of the Commission.

VIII. The Commission upon its own motion or a written request of anyone filing a complaint under section 11-216, HRS, may review compliance with the Agreement. If the Commission believes that the Agreement has been violated, it may institute administrative proceedings or a civil action in the Circuit Court of the First Circuit pursuant to section 11-228(c), HRS.

IX. This Agreement shall become effective as of the date that all parties have signed and the Commission has approved the entire Agreement.

- X. This Agreement constitutes the entire agreement between the Commission and Thermal on the matters raised herein, and no other statement, promise, or agreement, either in writing or oral, not contained in this Agreement made by either party or by agents of either party shall be enforceable.
- XI. This Agreement, unless violated, shall be a complete bar to any further action by the Commission with respect to the violations at issue in this matter.

**FOR THE COMMISSION:**

Robert Y. Watada, Executive Director

By: \_\_\_\_\_

Date: \_\_\_\_\_

**FOR THE RESPONDENTS:**

Ken I. Mashima, President  
Thermal Engineering Corporation

By: \_\_\_\_\_

Date: \_\_\_\_\_

(Name)

(Title)